

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0066P

Gross and Adjusted Income Tax

Fiscal Years Ended 09/30/92, 09/30/93, 09/30/94 and 09/30/95

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated in Delaware on June 30, 1972 was audited for fiscal years 1992, 1993, 1994, and 1995. Upon audit it was discovered that the taxpayer failed to report gross income subject to the high and low rates of tax. The department assessed a ten percent (10%) negligence penalty for failure to report service sales and sales of tangible personal property subject to gross income tax.

Taxpayer requests that the department waive the negligence penalty.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty because it failed to report gross income subject to tax.

Taxpayer, in a letter dated January 5, 1999 protested penalties assessed and states that it has at all times, acted in good faith and the underpayment of tax was due to reasonable cause. Taxpayer cites restructuring and significant turnover in the tax department at the time the gross receipts portion of the tax was calculated incorrectly.

A review of the audit, however, indicates the taxpayer made no attempt to report gross income in all

years of the audit assessment, which is clearly negligence.

Although the taxpayer may not intentionally have disregarded the laws and regulations of Indiana, it was negligent in failing to remit gross income tax. The assessment consisted of one hundred percent (100%) tax due for 1994 and 1995 and seventy one percent (71%) for 1996.

The taxpayer did not show reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.